

## **COMMUNITY AFFAIRS**

### **Division Of Codes And Standards Limited Dividend and Nonprofit Housing Corporations and Associations and Urban Renewal Entities Proposed Readoption: N.J.A.C. 5:13**

Authorized By: Charles A. Richman, Acting Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 40A:20-20

Proposal Number: PRN 2006-54

Calendar: Reference: See Summary below for explanation of exception to calendar

requirement..

Submit written comments by April 22, 2006 to:

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**CHARLES A. RICHMAN, Acting Commissioner**

The agency proposal follows:

#### **Summary**

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 5:13, the rules concerning Limited Dividend and Nonprofit Housing Corporations and Associations and Urban Renewal Entities, are scheduled to expire on January 19, 2007. The Department has reviewed this chapter and finds that that it continues to be necessary and appropriate for the purpose for which it was adopted, which is the proper regulation and supervision by the Department

of housing projects owned by limited dividend and nonprofit housing corporations and associations and urban renewal entities, and is therefore proposing that it be readopted without change.

P.L. 1949, c.184, formerly codified at N.J.S.A. 55:16-1 et seq., was repealed and superseded by P.L. 1991, c.431 (N.J.S.A. 40A:20-1 et seq.). However, subsection 20b of P.L. 1991, c.431 provides that “an urban renewal entity organized and operating under a law repealed by P.L. 1991, c.431 shall not be affected by that repeal.” Since the provisions of P.L. 1949, c.184 continue to be applicable to those entities and their housing projects, these rules likewise remain applicable.

Subchapter 1 sets forth general requirements applicable to all housing sponsors organized under either P.L. 1949, c.184 or P.L. 1991, c.431. The subject of each section in subchapter 1 is as follows:

- 5:13-1.1: Definitions
- 5:13-1.2: Scope
- 5:13-1.3: Operations of housing sponsors
- 5:13-1.4: Meetings of stockholders and directors
- 5:13-1.5: Tenant application, selection and priorities
- 5:13-1.6: Tenant priorities
- 5:13-1.7 Procedures for priority applications
- 5:13-1.8 Public notice to applicants of their rights
- 5:13-1.9 Filing and processing of applications
- 5:13-1.10 Lists of persons expressing interest in applying who did not apply
- 5:13-1.11 Leases

- 5:13-1.12 Rents, charges, payments in lieu of taxes
- 5:13-1.13 Submission of reports by housing sponsors to the Department
- 5:13-1.14 Prohibition against discriminatory practices
- 5:13-1.15 Filing of complains with the Department
- 5:13-1.16 Administrative orders
- 5:13-1.17 Hearing rights
- 5:13-1.18 Hearing requests
- 5:13-1.19 Granting of stays
- 5:13-1.20 Declaratory rulings
- 5:13-1.21 Informal disposition of contested cases

Subchapter 2 contains additional rules applicable to cooperatives financed under an FHA-insured (section 213) mortgage. The subject of each section in subchapter 2 is as follows:

- 5:13-2.1 Scope
- 5:13-2.2 Management, operation and maintenance
- 5:13-2.3 Transfer of stock

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

These rules are intended to ensure that housing projects subject to regulation by the Department under P.L. 1949, c.184 and P.L. 1991, c.431 continue to be both properly

maintained and affordable to persons at the income levels for which they were established.

### **Economic Impact**

The rules proposed for readoption implement statutes intended to encourage production of decent, affordable housing. The main economic impact of these rules is a consequence of the provision regulating rents and requiring the consent of the Department to any transfer of a housing project. Any limitation on rents so as to maintain affordability is economically beneficial to the affected tenants and limits the income of housing sponsors accordingly. The difference between permitted rents and what the market rent would be absent any controls depends, among other things, on the location of the project.

### **Federal Standards Statement**

No Federal standards analysis is required because these rules are not being proposed for readoption in compliance with, or in order to implement, any Federal law or rules or any State law referencing any Federal law or rules.

### **Jobs Impact**

The rules proposed for readoption do not have any impact on jobs in New Jersey. No jobs are either created or lost as a result of their being in effect.

### **Agricultural Industry Impact**

The Department does not anticipate any impact upon the agricultural industry as a result of the readoption of this chapter.

### **Regulatory Flexibility Statement**

Most, if not all, housing sponsors subject to these rules would qualify as “small businesses,” as defined in the New Jersey Regulatory Flexibility Act, N.J.A.C. 52:14B-16 et seq. Since these rules are necessary for the protection of the health, safety and welfare of residents of housing projects subject to regulation by the Department and for the maintenance of affordability, the rules must apply to the same extent regardless of whether or not a housing sponsor is a “small business.”

Housing sponsors are required to maintain, and make available to the Department, records concerning tenants and prospective tenants and the operation of the project. They must comply with documentation requirements if they seek increases in rentals. Such records should be maintained in the course of business in any event, so no significant recordkeeping costs are imposed by these rules.

### **Smart Growth Impact**

Readoption of this rule would further the achievement of smart growth and the implementation of the State Development and Redevelopment Plan by furthering the preservation of the existing low and moderate income multifamily housing stock, most of which is located in already developed areas.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:13.